

Message Text

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ACTION L-02

INFO OCT-01 EUR-08 EA-06 IO-04 ACDA-05 ISO-00 DPW-01 MC-01

AID-05 CIAE-00 DODE-00 PM-03 H-01 INR-05 NSAE-00

NSC-05 PA-01 RSC-01 PRS-01 SP-02 SS-15 USIA-06 AEC-05

AF-04 ARA-06 NEA-06 OIC-01 SAJ-01 SAM-01 SR-02 ORM-01

SCA-01 /101 W

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R 210700Z OCT 74

FM AMEMBASSY BERN

TO SECSTATE WASHDC 9723

INFO USUN NEW YORK 151

USMISSION GENEVA

USDEL SALT GENEVA

USDEL MBFR VIENNA

AMEMBASSY PARIS

AMEMBASSY LONDON

AMEMBASSY SAIGON

AMEMBASSY MOSCOW

C O N F I D E N T I A L SECTION 1 OF 2 BERN 3920

GENEVA PASS CCD AND CSCE

FROM USDEL TO LUCERNE ICRC CONFERENCE ON WEAPONS

E.O. 11652: GDS

TAGS: ICRC, PARM

SUBJ: ICRC CONFERENCE ON WEAPONS - EVALUATION

REF: BERN 3727 (NOTAL)

1. SUMMARY: LUCERNE ICRC CONFERENCE ON WEAPONS THAT
MAY CAUSE UNNECESSARY SUFFERING OR HAVE INDISCRIMINATE
EFFECTS CLOSED OCT. 18, AFTER FOUR WEEKS OF MEETINGS.
CONFERENCE CONSIDERED LEGAL CRITERIA, INCENDIARY
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WEAPONS, SMALL CALIBER HIGH VELOCITY PROJECTILES,

BLAST AND FRAGMENTATION WEAPONS, DELAYED ACTION WEAPONS AND TREACHEROUS WEAPONS, AND OTHER CATEGORIES OF WEAPONS AND NEW WEAPONS. CLOSING STATEMENTS COVERED ISSUE OF FUTURE WORK, AND INFORMAL AGREEMENT ON PROCEDURE TO BE FOLLOWED READ INTO RECORD BY PICTET (ICRC), PRESIDENT OF CONFERENCE. PREVIOUS TELEGRAMS PROVIDED DETAILED REPORTS ON DEBATE ON WEAPONS CATEGORIES, AND SEPTTEL TRANSMITS TEXT READ BY PICTET AS WELL AS EXTRACTS FROM STATEMENTS ON FUTURE WORK BY SWEDEN AND US. THIS TEL PROVIDES BACKGROUND AND ANALYSIS. END SUMMARY.

2. USDEL CAME CONFERENCE PREPARED TO DISCUSS TECHNICAL, MILITARY AND MEDICAL ASPECTS OF WEAPONS UNDER DISCUSSION. WE CONSIDERED IMPREMATUE FOR CONFERENCE TO FOCUS ON SPECIFIC TEXTS OR TAKE ANY STEPS ON PROHIBITION OR RESTRICTION OF THESE WEAPONS. WE, AND OUR ALLIES, SUCCEEDED IN ILLUSTRATING DIFFICULTY OF SUBJECT MATTER, IN PLACING ON RECORD MATERIAL DRAWING INTO QUESTION POINTS WITH WHICH WE DISAGREED IN PREVIOUS REPORTS (E.G., 1973 ICRC REPORT AND SYG NAPALM REPORT), AND IN ENSURING CONFERENCE, REPORT WAS BALANCED AND REFLECTED OUR VIEWS ADEQUATELY.

3. WHILE LUCERNE CONFERENCE CANNOT BIND UNGA OR SECOND SESSION OF DIPLOMATIC CONFERENCE ON INTERNATIONAL HUMANITARIAN LAW, WE PARTICIPATED IN NEGOTIATIONS FOR GENTLEMAN'S AGREEMENT ON FUTURE WORK WHICH WAS THEN MADE PART OF THE REPORT. WHILE WE HAD HOPED TO GET CLEARER AGREEMENT THAT THE UNGA AND DIPLOMATIC CONFERENCE WOULD NOT TAKE PREMATURE ACTION, WE CONSIDER INFORMAL AGREEMENT ACHIEVED CONSISTENT WITH INSTRUCTIONS (STATE 220961) (NOTAL) AND WITH OUR PREDICTION OF OUTCOME (BERN 3829) (NOTAL). WE DO NOT OVERESTIMATE VALUE OF THIS ARRANGEMENT BUT CONSIDER IT SHOULD BE OF SOME HELP KEEPING MATTER UNDER CONTROL FOR NEXT 18 MONTHS. HOWEVER, WE NOTE BLIX SAID HE WOULD BE PREPARING REVISION OF WORKING PAPER (CCDH/DT/2) FOR SECOND SESSION
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OF DIPLOMATIC CONFERENCE, AND YUGOSLAVIA, NORWAY, AND ALGERIA SUPPORTED USING THIS DOCUMENT AS A BASIS FOR WORK.

4. WE NOTE THAT ALTHOUGH BLIX (SWEDEN) APPEARED READY TO ACCEPT SLIGHTLY BETTER FORMULATION (FROM OUR VIEW), HE HAD VARIOUS PROBLEMS. FIRST, HE DID NOT KEEP CO-SPONSORS OF CDDH/DT/2 (DIPLOMATIC CONFERENCE

WEAPONS WORKING PAPER (EGYPT, MEXICO, NORWAY, SWEDEN, SWITZERLAND, AND YUGOSLAVIA) ADEQUATELY INFORMED OF SWEDISH POSITIONS ON SUBSTANCE OR ON FUTURE PROCEDURE. THIS PRODUCED BACKLASH. E.G., FROM NORWAY WHICH AT LAST MOMENT ALMOST TORPEDOED ARRANGEMENT CONCERNING FUTURE WORK. ABADA (ALGERIA) AND OBRADIVIC (YUGOSLAVIA) WERE KEY FIGURES AT CONFERENCE PROJECTING POSITION SOMEWHAT TO LEFT OF THAT OF SWEDEN ON WEAPONS LIMITATIONS AND ON SPEED WITH WHICH THEY SHOULD BE ADOPTED. MIRALLES OSTOS (MEXICO) WAS RELATIVELY QUIET, BUT BLIX FEARS GARCIA ROBLES IN NEW YORK MAY NOT ACCEPT TREATING MATTER AS PROVIDED IN ARRANGEMENT WITH BLIX. KEY AFRICAN AT CONFERENCE WAS YOKO (ZAIRE) WHO SEEMED INSTILLED WITH LIMITED UNDERSTANDING OF ISSUES AND MOTIVATED BY FEAR THAT HE WOULD BE CHARGED BY AFRICAN GROUP IN GENEVA IN FEBRUARY 1975 THAT HE WOULD OUT THEIR CAUSE. YOKO EVENTUALLY WENT ALONG WITH DEAL ON FUTURE WORK, SEEMINGLY WITH LESS MISGIVINGS THAT HE TRIED TO PROJECT. WHILE IT IS POSSIBLE THAT THINGS MAY GET OUT OF HAND, WE MADE IT CLEAR IN OUR STATEMENT THAT REASONABLE TREATMENT OF TOPIC ESSENTIAL CONDITION TO USG.

5. EXISTENCE OF INFORMAL ARRANGEMENT FOR SHORT-TERM WILL NOT LESSEN POLITICAL DRIVE FOR SOME SORT OF MOVEMENT ON SUBSTANCE AT SECOND SESSION OF CONFERENCE OF GOVERNMENT EXPERTS, WHERE FOCUS WILL BE MORE SPECIFIC. THUS, URGENCY FOR USG POSITIONS ON SUBSTANCE IS NOT DIMINISHED.

6. ON SUBSTANCE, PRESSURE FOR PROHIBITION IS MOST LIKELY TO FOCUS ON INCENDIARY WEAPONS. A SUBSTANTIAL NUMBER OF THOSE AT CONFERENCE FEEL THE CASE AGAINST SUCH

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WEAPONS HAS NOW BEEN MADE. SEVERAL US ALLIES PRIVATELY SAID THEY HOPED WE WOULD ACCEDE TO NAPALM PROHIBITION WHICH WOULD TAKE THE PRESSURE OFF OTHER WEAPONS. AGAINST THEIR PERSONAL CONVICTIONS THEY NEVERTHELESS SUPPORTED POSITION OF US THAT NAPALM WAS MILITARILY AN EFFECTIVE AND USEFUL WEAPON. WITH REGARD TO SMALL CALIBER HIGH VELOCITY PROJECTILES, AS WELL AS FOR FRAGMENTATION WEAPONS, THERE SEEMS AGREEMENT THAT ADDITIONAL RESEARCH AND INFORMATION IS REQUIRED. ON DELAYED ACTION WEAPONS, IT APPEARS LIKELY THAT THERE WILL BE SUBSTANTIAL PRESSURE TO REGULATE THE LAYING OF MINE FIELDS AND TO REGULATE THE USE OF BOOBY TRAPS, AT LEAST IN RESPECT TO THEIR POTENTIAL EFFECTS ON CIVILIANS. SOME WESTERN DELEGATES WISHED TO HOLD PARIS GROUP DISCUSSION ON POSSIBLE

MINE WARFARE CONSTRAINTS. FUTURE WEAPONS DID NOT
RECEIVE SERIOUS DEBATE.

7. USDEL DOUBTS CASE IS SUBSTANTIVELY PLAUSIBLE AGAINST THE
WEAPONS THEMSELVES (AS OPPOSED TO POSSIBLE ILLEGAL
USE OF SUCH WEAPONS) ON GROUNDS OF CRITERION OF
"UNNECESSARY SUFFERING" OR OF "INDISCRIMINATENESS."
WE EXPECT THAT ULTIMATE DECISION WILL BE MORE
BASED ON A WEIGHING OF MILITARY UTILITY OF WEAPON
IN QUESTION AGAINST DOMESTIC AND INTERNATIONAL POLITICAL
PRESSURE. BLIX NOW PRESSING FOR NEW OR EXPANDED LEGAL
CRITERIA. WE NOTE IN PASSING, AND WITH SOME PLEASURE,
THAT PRESS INTEREST IN LUCERNE CONFERENCE WAS LOW;
ASIDE FROM LOCAL TV, ONLY SWISS AND FRENCH WIRE SERVICE
REPORTERS VISITED CONFERENCE SITE BRIEFLY.

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ACTION L-02

INFO OCT-01 EUR-08 EA-06 IO-04 ACDA-05 ISO-00 DPW-01 MC-01

AID-05 CIAE-00 DODE-00 PM-03 H-01 INR-05 NSAE-00

NSC-05 PA-01 RSC-01 PRS-01 SP-02 SS-15 USIA-06 AEC-05

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R 210700Z OCT 74

FM AMEMBASSY BERN

TO SECSTATE WASHDC 9724

INFO USMISSION USUN NEW YORK

USMISSION GENEVA

USDEL SALT TWO GENEV

USDEL MBFR VIENNA

AMEMBASSY PARIS

AMEMBASSY LONDON

AMEMBASSY SAIGON

AMEMBASSY MOSCOW

C O N F I D E N T I A L SECTION 2 OF 2 BERN 3920

GENEVA PASS CCD AND CSCE

FROM USDEL TO LUCERNE ICRC CONFERENCE ON WEAPONS

8. COORDINATION AMONG AUGMENTED PARIS GROUP OF EC-9 PLUS AUSTRALIA, NEW ZEALAND AND JAPAN REMAINED EXCELLENT, BOTH ON SUBSTANCE, AND, IN FINAL DAYS, ON PROCEDURE FOR FUTURE WORK. MEMBERS OF THIS GROUP CONSIDERED IT IMPERATIVE THAT COORDINATION AMONG MEMBERS BE CONTINUED AT DIPLOMATIC CONFERENCE - AND THERE WAS SUBSTANTIAL FEELING THAT COORDINATION SHOULD COVER ALL SUBJECTS OF DIPLOMATIC CONFERENCE, I.E., HUMANITARIAN LAW, NOT ONLY WEAPONS. NEVERTHELESS, WEAPONS ISSUE HAS APPARENTLY ATTRACTED CONSIDERABLE
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ATTENTION IN BOTH FOREIGN AND DEFENSE MINISTRIES IN MANY CAPITALS AND MAY HAVE ASSUMED GREATER IMPORTANCE THAN OTHER LAW OF WAR CONSIDERATIONS. IN ADDITION, THERE HAVE BEEN REQUESTS FOR BILATERAL CONSULTATIONS FROM CANADA, FRANCE, SWEDEN AND UK. FRG WISHES TO HOLD MILITARY OR DEFENSE MINISTRY MEETING IN LONDON AND IS WORKING WITH UK AND FRANCE ON THIS. ONE AFRICAN STATE, KENYA, SUGGESTED WE (US) HAD GREATER COMMUNITY OF INTERESTS WITH AFRICAN STATES THAN WE BELIEVED AND THOUGHT US SHOULD MEET WITH SOME OF THESE BEFORE DIPLOMATIC CONFERENCE. MEXICANS SAID WE SHOULD INCREASE COMMUNICATION WITH MEXICO CITY ON LOW SUBJECT.

9. US COORDINATED WITH SOVIETS THROUGHOUT CONFERENCE. SOVIET POSITION REMAINED SUBSTANTIALLY AS DESCRIBED PARA 6 OF REFTTEL, BUT THEY ENDED UP GOING ALONG WITH PACKAGE ON PROCEDURE FOR FOLLOW UP. WE WERE IN TOUCH PER BERN 3728 AND STATE 220961 (NOTAL) AND BLISCHENKO WAS ACTIVE IN SIDE NEGOTIATIONS. BLISHENKO REPEATEDLY URGED US-USSR BILATERALS PRIOR TO DIPLOMATIC CONFERENCE.

10. DRV BROUGHT UP ISSUE OF PARTICIPATION OF PRG AGAIN AT END OF CONFERENCE IN CONNECTION WITH PARA IN REPORT DESCRIBING REFUSAL OF ICRC TO INVITE, AND REGRETS OF SOME EXPERTS EXPRESSED IN REACTION. DRV REPS SOUGHT INCLUSION OF SENTENCE ASSERTING THAT NON-INVITATION OF PRG AN ENCOURAGEMENT OF SAIGON AND AMERICAN POLICY OF VIOLATING PARIS AGREEMENTS AND A MENACE TO PEACE IN SOUTH VIETNAM AND INDOCHINA. US COORDINATED CLOSELY WITH TRAN THE (GVN), AND, WITH KARLSHOVEN (RAPPORTEUR), AND PILLOUD (ICRC) WORKED OUT FOLLOWING

COMPROMISE FOR KEY PARA OF REPORT AT ISSUE:

"PARA 3. IN THE FIRST PLENARY SESSION, A NUMBER OF EXPERTS EXPRESSED REGRET AT THE DECISION TAKEN BY THE ICRC. IN THEIR OPINION, THIS WAS BOTH ILL-FOUNDED IN LAW (AS IT WAS CONTRARY TO THE GENEVA CONVENTIONS, TO WHICH THE PROVISIONAL REVOLUTIONARY GOVERNMENT WAS A PARTY SINCE THE TIME OF ITS ADHESION) AND IRREGULAR ON CONFIDENTIAL

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ACCOUNT OF THE FORM WHICH THE CONSULTATION BY THE ICRC HAD TAKEN. THESE EXPERTS POINTED OUT THAT THE DECISION WAS ALSO CONTRARY TO THE PARIS AGREEMENT AND TO THE FINAL ACT OF THE INTERNATIONAL CONFERENCE ON VIET NAM, AND THAT THE PROVISIONAL REVOLUTIONARY GOVERNMENT OUGHT TO HAVE BEEN INVITED NOTWITHSTANDING THE CONTRARY DECISION TAKEN EARLIER BY THE DIPLOMATIC CONFERENCE. OTHER EXPERTS, WHO MADE REFERENCE TO ARTICLE 8(3) OF THE RULES OF PROCEDURE CONSIDERED THAT THESE REMARKS WERE POLITICAL AND OUT OF ORDER. HE SAID THAT THE CONFERENCE SHOULD NOT REOPEN AN ISSUE WHICH THE DIPLOMATIC CONFERENCE AND THE ENQUIRY MADE BY THE ICRC HAD ALREADY DECIDED."

EES DID NOT ACCEPT COMPROMISE AND INSISTED ON FULL REFERENCE POINTED SPECIFICALLY AT GVN AND USG. KARLSHOVEN HELD FIRM AND REPORT WILL REFLECT, IN PARA RELATING TO ITS ADOPTION, THAT SOME EXPERTS RESERVED THEIR POSITION ON PARA 3. DESPITE REQUEST MADE PER PARA 3 OF STATE 220961, SOVIETS WERE OF NO HELP IN TURNING DRV OFF. IN FACT, SEVERAL TIMES DURING CONSIDERATION OF REPORT DRV TRIED TO INSERT REFERENCES POINTED TO AMERICAN ACTIONS IN VIETNAM AND WERE STRONGLY SUPPORTED BY USSR AND GDR, BUT ALL SUCH PROPOSALS WERE REJECTED BY KARLSHOVEN.

11. KARLSHOVEN DID EXCELLENT JOB AS RAPPORTEUR ALTHOUGH UNDER SUBSTANTIAL PRESSURE FROM ALL SIDES. HE DID HIS BEST TO COORDINATE REPORT INFORMALLY PRIOR TO FINAL ADOPTION AND TO TAKE ALL REASONABLE COMMENTS. HE INCORPORATED LARGE NUMBER OF IMPORTANT US COMMENTS OR REVISIONS PRIOR TO CONSIDERATION OF REPORT BY CONFERENCE AND REFUSED NUMBER OF SUGGESTED REVISIONS PRESENTED BY OTHERS. AS INDICATED ABOVE, HE WAS PARTICULARLY HELPFUL ON PRG AND OTHER POLITICAL ASPECTS OF REPORT.

12. BLIX (SWEDEN) NOT WILLING TO PROVIDE US UNGA DRAFT RES HE PREPARING FOR FIRST COMMITTEE NAPALM ITEM, BUT PROMISES TO STAY WITHIN BOUNDS OF

INFORMAL PROCEDURAL AGREEMENT. HE EXPECTS TO BE IN
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NYC MID-NOVEMBER AND WILL VISIT WASHINGTON ABOUT
THAT TIME.

13. OKA (JAPAN) AND MULLER (FINLAND) GOING
IMMEDIATELY TO NYC FOR UNGA. MULLER ALSO INTENDS TO
VISIT WASHINGTON TO DISCUSS HUMANITARIAN LAW AND
WEAPONS ISSUE. OKA PARTICULARLY WORRIED ABOUT SIXTH
COMMITTEE RESOLUTION (IN ADDITION TO FIRST COMMITTEE
ITEM), AND, AFTER REVIEWING LONDON TALKS WITH HIM
(LONDON 12175 AND PARIS 22620) (NOTAL) WE SUGGESTED
HE BE IN TOUCH WITH STEEL (UKUN) AND ROSENSTOCK (USUN).
MULLER WISHES VERY MUCH TO BE PART OF WEO CON-
SULTATIONS AND FELT LEFT OUT IN LUCERNE BECAUSE
FINLAND OMITTED FROM AUGMENTED PARIS GROUP
COMPOSITION. AS HE CAN BE USEFUL, WE RECOMMEND
EARLY USUN CONTACT AND COORDINATION WITH HIM. PILLOUD
(ICRC) ALSO THINKING OF VISITING UNGA AND WASHINGTON.

14. SWEDES DEFINITELY SHAKEN BY COHESION OF
PARIS GROUP AND BY SOLID DATA PRESENTED BY WESTERN
EXPERTS. EVEN THEIR LARGE AND WELL PREPARED DELEGATION COULD
NOT COUNTER THE PRESENTATIONS WHICH CHALLENGED EARLIER CONCLUSION
AND INDICATED OBJECTIVITY WAS LACKING IN PREVIOUS WORK ON SUBJECT.
NEVERTHELESS, THIS WAS ONLY A TEMPORARY
THOUGH SEVERE SETBACK AND SWEDEN CAN BE EXPECTED
VIGOROUSLY TO PUSH THE WEAPONS ISSUE IN ALL FORUMS.
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